

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARGARITA ROSSY, as Administrator of the
ESTATE OF JOSE HERNANDEZ-ROSSY,

Plaintiffs,

vs.

NOTICE OF MOTION
Case No. 17-CV-00937S

CITY OF BUFFALO, and its agents, servants and employees, and
BUFFALO POLICE DEPARTMENT P.O. JUSTIN TEDESCO,
BUFFALO POLICE DEPARTMENT P.O. JOSEPH ACQUINO,
and POLICE COMMISSIONER DANIEL DERENDA,
Individually and in their representative capacities, and
AMERICAN MEDICAL RESPONSE d/b/a “AMR”
And its agents, servants and employees,

Defendants.

NATURE OF ACTION:

Federal claims for Deprivation of Civil Rights pursuant to 42 U.S.C. §1983; and *Monell* claims for liability pursuant to 42 U.S.C. §1981 and 42 U.S.C. §1983; N.Y. State common law claims for Wrongful Death and Excessive Force, and negligence; state and federal claims for Tampering with Evidence and Official Misconduct.

MOVING PARTIES:

Plaintiff MARGARITA ROSSY, as Administrator of the ESTATE OF JOSE HERNANDEZ-ROSSY by and through his attorney, NELSON S. TORRE, ESQ.

RELIEF REQUESTED:

An Order granting Plaintiff MARGARITA ROSSY, as Administrator of the ESTATE OF JOSE HERNANDEZ-ROSSY summary judgment against defendant CITY OF BUFFALO, and its agents, servants and employees, and BUFFALO POLICE DEPARTMENT P.O. JUSTIN TEDESCO, BUFFALO POLICE DEPARTMENT P.O. JOSEPH ACQUINO, and POLICE COMMISSIONER DANIEL DERENDA, Individually and in their representative capacities for: (1) Liability on the Federal Civil Rights claims; and (2) Liability for Tampering with Evidence and

Official Misconduct, and leave to file a Brief exceeding by six (6) pages the length heretofore granted, together with such other and further relief as to this Court may seem necessary and just.

DATE, TIME AND PLACE:

On the ____ day of _____ 2022, or at such time as the Court directs, at the United States District Court for the Western District of New York, Robert Jackson Courthouse, 2 Niagara Square, Buffalo, New York 14202.

SUPPORTING PAPERS:

All prior pleadings filed herein, together with the Supporting Declaration of Nelson S. Torre, Esq., with Exhibits 1-86; and the plaintiff's Statement of Undisputed Material Facts; and plaintiff's Memorandum of Law.

REPLY PAPERS:

The moving Plaintiff intends, if need be, to file and serve reply papers, which are to be filed in accordance with the Court's briefing schedule.

GROUND FOR RELIEF:

Fed. R. Civ. Pro. 56 and the authorities cited herein; 28 U.S.C. §1367 and the authorities cited herein.

ORAL ARGUMENT:

As Scheduled by the Court herein.

Dated: Buffalo, New York
April 6, 2022

Yours, etc.,
Nelson S. Torre

NELSON S. TORRE, ESQ.
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IN THE UNITED STATES DISTRICT COURT
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Case No.: 17-CV-00937S

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and POLICE COMMISSIONER DANIEL DERENDA,
Individually and in their representative capacities, and
AMERICAN MEDICAL RESPONSE d/b/a "AMR"
And its agents, servants and employees,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Law Office of Nelson S. Torre, Esq., on April 6, 2022 I electronically filed the foregoing Notice of Motion with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

1. TIMOTHY S. BRENNAN
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2. ROBERT EMMET QUINN
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KATHY B. CRESPO